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REPORT

OF THE

COMMISSIONERS APPOINTED BY THE LEGISLATURES OF MARYLAND
AND VIRGINIA TO

RUN AND MARK

THE DIVISION LINE

BETWEEN

MARYLAND AND VIRGINIA,

ON THE

EASTERN SHORE OF CHESAPEAKE BAY.

PRINTED BY AUTHORITY.

ANNAPOLIS:

WM. THOMPSON OF R., PRINTER

1868.





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*Joint commission for marking the boundary
line between Maryland and Virginia.*

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REPORT.

TO THE HONORABLE, THE

GENERAL ASSEMBLY OF MARYLAND:

The undersigned, appointed a Joint Committee from the two Houses of the last General Assembly, (House proceedings, 1867, pp. 1072 and 1104,) to meet a similar committee appointed by the Legislature of Virginia in February, 1867, "to adjust and mark the Eastern Shore boundary between the two States, the results of their work to be submitted to the Legislatures of the said States for approval or rejection," beg leave to report that, in pursuance of previous arrangement, the Commissioners of Virginia and Maryland met at Newtown, in Worcester county, Maryland, on Monday, the 9th of September, 1867. There were present Dr. John W. Field, Colonel Thomas Hall Kellam, and Samuel W. Powell, Esq., on the part of Virginia; and Isaac D. Jones, William J. Aydelott, and Levin L. Waters, on the part of Maryland. Mr. Jones was appointed Chairman, and Dr. Field, Secretary of the Joint Commission. Some general conversation ensued in reference to the boundary line between the two States on the Eastern Shore which the Commissioners

were appointed "to adjust and mark." It seemed to be conceded on both sides, in general terms, that the line should be so adjusted as to leave each State in the possession of the territorial rights which each had heretofore actually held and enjoyed. The Chairman was authorized to employ a competent civil engineer to execute the work under the direction of the Commissioners, and it was agreed that the portion of the line between the Pocomoke river and the Atlantic ocean should be first run. Mr. Jones engaged the services of Mr. John de la Camp, of the corps of United States Civil Engineers, who had surveyed and run the line in 1858, under a former joint boundary commission. On the 6th of November, 1867, pursuant to agreement, the Commissioners of the two States met at Horntown, Virginia, near the traditional line of Calvert and Scarborough. Mr. Aydelott was chosen by the Maryland Commissioners, and Messrs. Field and Kellam, on the part of Virginia, to make the necessary arrangements, employing assistants, &c., and accompany the engineer on the survey. They entered upon the work on the 8th of November, 1867, and were engaged fifteen days in the survey between the Pocomoke river and the Atlantic ocean.

The Boundary Commissioners of the two States met at Crisfield, the terminus of the Eastern Shore Rail Road, on the Annamessix River, on Monday, December the 2d, 1867, pursuant to agreement. Present, on the part of Virginia, Dr. John W. Field and Colonel Kellam; and on the part of Maryland, Messrs. Jones, Waters, and Aydelott.

Dr. Fields, Colonel Kellam, and Mr. Aydelott reported their proceedings as sub-committee accompanying Mr. John de la Camp in surveying and marking the traditional Calvert and Scarborough line between Virginia

and Maryland, from the east bank of the Pocomoke River to the Atlantic Ocean, which proceedings were approved as satisfactory.

After discussion upon the residue of the dividing line, it was agreed to procure a vessel, and to proceed, on the next day, to examine the prominent points involved in the further prosecution of their work. Accordingly, on Tuesday morning, December 3d, 1867, the Commissioners of the two States procured a sloop and proceeded to Cedar Straits, which are a shallow channel dividing the southern terminus of Watkins' Point from Great Fox Island. Thence they went to Shank's Hammock, the southern end of Smith's Island; and thence to Horse Hammock, on the eastern side of Smith's Island, where they remained all night. Here Mr. de la Camp took observations of the bearings of Smith's Point Light Boat, at the mouth of the Potomac River, and of the two Lighthouses recently established, one on Jean's Island bar, in Tangier Sound, and the other in Annamessex River. On the morning of Wednesday, December 4th, 1867, Mr. de la Camp surveyed Horse Hammock, and took the bearing of Smith's Point Lighthouse. They then embarked upon the sloop, and proceeded across Tangier Sound to Jean's Island, where they remained several hours, to enable Mr. de la Camp to survey and locate the Jean's Island beach, &c. Afterwards they proceeded to Crisfield, where Mr. de la Camp made additional surveys.

After the arrival of the Commissioners at Crisfield, and a full conference upon the boundary line in question, the Maryland Commissioners informed the Virginia Commissioners that the Act of the General Assembly of Maryland of 1860, chapter 385, declared "that the true divisional line across the Chesapeake Bay is a straight line from Smith's Point, at the mouth of the Potomac, to the

southernmost angle of the body of land defined by the Commissioners of 1668 as Watkins' Point," which angle is at Cedar Straits; that accordingly, on behalf of Maryland, they proposed the following boundary line, viz: "From Smith's Point, at the mouth of the Potomac River, by the shortest line to the southernmost angle of Watkins' Point, at Cedar Straits; thence northeast to the channel of Pocomoke Bay or River; thence by and with the said channel up the said bay and river to a point in said channel opposite to the point on the east bank or shore of said river, ascertained by Mr. de la Camp as the beginning on said shore of the traditional Calvert and Scarborough line ran in 1668; thence by and with said traditional line, as surveyed and laid down by Mr. de la Camp, to the Atlantic Ocean." The Maryland Commissioners further informed the Virginia Commissioners that in view of the said Act of the Maryland Assembly, the line proposed, as a whole, was the only line to which they considered themselves authorized to agree; and in view of all the circumstances it was, in their judgment, the most equitable and practicable line which could be agreed upon.

To this proposition, the Virginia Commissioners replied as follows: "That they must decline to accept the proposed line, because the line of division across the Chesapeake Bay, described in the King's charter to Lord Baltimore, was to be a line drawn from a point near the mouth of the Potomac, to Watkins' Point; that the Commissioners, Scarborough and Calvert, appointed by the States of Virginia and Maryland, respectively, to survey and establish the divisional line between the two States, on the Eastern Shore, in June, 1668, agreed upon the point which has been recently ascertained to have been at or near the position at present occupied by the Lighthouse recently erected on the bar extending from the point of Jean's Island, at Watkins' Point, mentioned in Lord

Baltimore's charter; that Colonel McDonald and Colonel Lee, Commissioners of Virginia and Maryland, respectively, appointed to run out and mark the said divisional line, agreed that Watkins' Point extended originally, or in 1668, near the said Lighthouse, at the mouth of Little Annamessix River, or on the bar extending out from the point of Jean's Island; that Virginia has ever claimed that the divisional line across Chesapeake Bay was a straight line drawn from Smith's Point to Watkins' Point, as located in 1668, as aforesaid; that there are lands on Smith's Island which have always been considered as belonging to Virginia, whereas the line proposed by the Maryland Commissioners would include no part of Smith's Island in Virginia; and, finally, that the joint resolutions of the Virginia Legislature appointing the present Commissioners to adjust the line in question, assume that the line of division between the two States across the Chesapeake Bay, proceeds from Smith's Point, runs *across Smith's Island* to Watkins' Point, as ascertained by Lieutenant Mickler, civil engineer, acting under the direction of Commissioners McDonald and Lee, and that the present Commissioners hold themselves bound by the terms of the authority conferred upon them." The Virginia Commissioners further claimed the entire Pocomoke Sound and River up to the northern shore of that Sound and River, while admitting that they did not propose to claim any portion of the mainland which had been settled and always heretofore held by Maryland. To this the Maryland Commissioners replied, that the water rights always held and enjoyed by the dwellers on the land in question, and by the citizens of Maryland, were indispensable, and that if Maryland was entitled to the land on the north shore of the Sound and River, and

Virginia entitled to that on the south shore, each State owned, by law, to the centre of the stream.

Being unable to agree upon a divisional line, the Commissioners separated, leaving the controversy precisely as they found it. But our labor has not been lost. Much valuable information has been gained. The investigations incident to the discharge of our duty in this regard have led us to a much clearer view of the whole subject than we had at the commencement of our labors. It is apparent that the legislative action of the two States, so far as it is attempted to assert or set forth, the boundary line in question, has been ill-advised, injudicious, and inconsistent. Maryland, by the Act of 1860, chapter 385, declares "that the line established by the agreement of the Commissioners authorized in the year 1668, to fix the bounds of Virginia and Maryland, is hereby declared to be the true line of boundary between the two States on the eastern shore of Chesapeake Bay; and that the true divisional line across Chesapeake Bay is a straight line from Smith's Point, at the mouth of the Potomac, to the southernmost angle of the body of land defined by the aforesaid Commissioners as Watkins' Point." Now, the Commissioners Calvert and Scarborough, in 1668, "after a full and perfect view taken of the point of land made by the north side of Pocomoke Bay and south side of Annamessix Bay, concluded the same to be Watkins' Point, from which said point, so-called, we have run an east line agreeable with the extremest part of the *westernmost angle* of said Watkins' Point over Pocomoke River," &c. About ten years ago Lieutenant Michler, surveyor, under the Commissioners of Maryland and Virginia, by reversing the traditional line of Calvert and Scarborough, and prolonging it across Somerset county and into Tangier

Sound, till it intersected a right line drawn from Smith's Point over the southern part of Smith's Island, found the place of intersection to be about where the Light Boat was then anchored, a mile or more from the shore, "which point of intersection," says Lieutenant Michler, "must be very nearly the position of the initial point, the westernmost angle of Watkins' Point, from which the old Scarborough line was originally run." The Maryland Act of 1860 declares this to be the true boundary line, that is, beginning at the *westernmost* angle; the closing line of the Maryland charter is "the shortest line" from Cinquack, near the mouth of Potomac River, to the place of beginning; while the Maryland Act declares the true divisional line across the Chesapeake Bay to be a straight line from Smith's Point to the southernmost angle of Watkins' Point—that southernmost angle being four or five miles south of the said westernmost angle or place of beginning, as ascertained by the said "intersection." So ended the legislation of Maryland, which commenced by the Act of 1852, chapter 60, for a Joint Commission for "retracing and marking the said boundary line;" while Virginia, after joining in the Commission, upon receiving the joint report from the Commissioners of part execution of the work, passed a resolution for the payment of her part of the expense of erecting suitable monuments along the present divisional line between Worcester county, Maryland, and Accomac county, Virginia, and along the prolongation of this line westwardly over Somerset county to the bay. And this, although Lieutenant Michler had reported that "no boundary line marks of any kind were found west of the Pocomoke, and the inhabitants professed to be in ignorance of the existence of any," and no record or tradition of any such line was found or can be found. On the contrary, the Maryland Land Office records show, that, beginning in 1662, the lands on the

south side of the prolongation westwardly of the line of 1668 were granted by Maryland in 1669 and afterwards; and it is well known that from 1668 down to the passage of the Virginia resolution aforesaid, Virginia never set up any claim to any land on the west side of Pocomoke Bay.

There are certain other historical facts which throw light upon this subject: Lord Baltimore's charter was granted June 20th, 1632; opposition to the grant was immediately manifested by the Virginia settlers. Clayborne and his associates claimed the Isle of Kent, and the right, under license from the Crown, to trade with the Indians within the limits of the Maryland charter. His petition to the King was referred to the Lords Commissioners of the Council, who, in April, 1638, decided "that the lands in question absolutely belonged to Lord Baltimore, and that no plantation or trade with the Indians ought to be allowed within the limits of his patent without his permission." In virtue of this decision, and probably by order of the King, the Governor of Virginia, by proclamation, 4th of October, 1638, prohibited "all persons within Virginia to use any trade, &c., with any of the Indians inhabiting within the province of Maryland, viz.: northward from the river Wiconowe, commonly known by the name of Onancock, on the eastern side of the grand bay of Chesapeake, and northward from the river Chinguack, called Great Wicomico, on the western side of the bay, without license from the Lord Baltimore," &c. Bozman's Maryland, 2 vol., p. 73, in a note, says: "From these expressions in this proclamation, it may be inferred that the 38th degree of latitude was then deemed to cross the eastern shore of Virginia as low down in Accomack county as Onancock

Creek, or at least that the southern limits of Maryland extended that far south." Intelligent Virginians, and the Virginia authorities of that time, could not have been ignorant of the extent of Lord Baltimore's claim. The Chairman acknowledges his obligations to Colonel Brantz Mayer, of Baltimore, President of the Maryland Historical Society, for a copy of a most rare and important document. It is entitled, "A relation of Maryland, reprinted from the London edition of 1635, with a prefatory note and appendix, by Francis L. Hawks, D. D., LL.D; New York, Joseph Sabin, 1865." This pamphlet, evidently prepared and published by direction and under the supervision of Lord Baltimore, to encourage immigration into his colony, contains a copy of his charter in English, and a map with a dotted boundary line along the southern shore of the Potomac to its mouth, and down the bay shore to the place called Cinquack, several miles below the mouth of the Potomac, and thence across the bay to the southernmost extremity of the point formed by the Wighco (Pocomoke) and the Sound, now known as Tangier Sound; thence east to the ocean. This shows clearly that the point called in the charter Watkins' Point, and the beginning boundary and last call of the grant, was not "the point of land made by north side of Pocomoke Bay and south side of Annamessix Bay," as concluded by Calvert and Scarborough, (an extent of territory from eight to ten miles from east to west on the north, and extending south about the same distance to a point at Cedar Straits,) but was really the point formed by Pocomoke Bay and Tangier Sound, at Cedar Straits. That this was, in 1634 and 1635, (Colonel Mayer states the first edition was published in 1634,) the well known claim of Lord Baltimore, must have been evident to every

one in England and Virginia who saw his map and pamphlet. It was probably known to the Lords Commissioners when their decision was made on Clayborne's petition in 1638, and also to Governor Harvey, of Virginia, at the date of his proclamation in October, 1638, especially as the limits of trade set forth in the proclamation seem to be nearly identical with those of Lord Baltimore's map.

Colonel McDonald was sent by Virginia to England in 1860 to procure documentary evidence of boundaries between Virginia and Maryland, &c., and in 1861 returned with "nine volumes of manuscript and one book of rare and valuable maps." These volumes and maps were among the archives of Virginia when Richmond was captured by the United States army in 1865, as stated by the Virginia Commissioners; who further stated that all were carried off during the disorder which for some time prevailed subsequent to the capture; that since then nothing has been found but the lids of the book from which the maps were torn. This is greatly to be regretted on every account, especially as Colonel McDonald, in his report to Governor Letcher, and published by the Virginia Legislature in March, 1861, confirms the authenticity of the map and pamphlet of 1635 thus: "I also obtained from the British Museum a manuscript copy of an old printed pamphlet, entitled 'A Relation of Maryland, together with a map of the country, the conditions of plantation, and his Majesty's charter to Lord Baltimore, translated into English,' which appears from its title page to have been printed in London in the year 1635, and by the contents to have been written by an inhabitant of Maryland. This manuscript will be found bound up in volume 9, and commences at page 206 of that volume. A

fac simile of the map in said pamphlet will be found in the book of maps, and numbered 4." Colonel McDonald complains that "the pretended translation into English is not at all licensed by the Latin text," &c.; and but for the mistranslation, no reasonable doubt would ever have existed that the whole Potomac River was wholly without the limits of Maryland and within the bounds of Virginia." Colonel McDonald was not ignorant of the book entitled "The Travels, &c., of Captain John Smith, &c., beginning in 1593 and continued to 1629," republished at Richmond in 1819 from the London edition of 1629. If he had closely inspected the map of the Chesapeake Bay made by Smith, (and as stated by Colonel McDonald in his said report, originally "published in 1612,") he would have found that a "certain place called Cinquack," mentioned in Lord Baltimore's charter, "situate near the mouth of said river," is on the bay shore, and south of the south shore of the Potomac.

Colonel McDonald refers to "the answers given by Lord Baltimore, March 26th, 1678, to questions propounded to him by the Lords' Committee, 10th April, 1676." To the question as to boundaries, Lord Baltimore says: "The boundaries, latitude and longitude of this province are well described and set forth in a late map or chart of this province, lately made and prepared by one Augustine Herman, an inhabitant of said province, and printed and publicly sold in London by his Majesty's license," &c. Colonel McDonald could not find "Herman's" map, but says: "In Ogilby's America, published in London in 1671, I found a map of Maryland, which upon its face is said to be the achievement of the Right Honorable C. Calvert, Baron of Baltimore, &c., having upon it also the Baltimore coat of arms. This is the only map in the book which was not taken by Ogilby from

‘Montaner’s History,’ a German work from which Ogilby copied, and this may be the map to which Lord Baltimore referred in his said answer. It is with very slight change the same as the one which I have above referred to as found in the pamphlet entitled “A Relation of Maryland.” A *fac simile* of each will be found in the book of maps before mentioned. They both dot Lord Baltimore’s southwestern boundary on the south bank of the Potomac River,” &c. All this ought to have convinced Colonel McDonald that the claim of Maryland to the southern shore of the Potomac was not based merely on a mistranslation of the charter, but was in accordance with the true intent and meaning of the grant, especially as all the research of Colonel McDonald did not enable him to find any map dated before 1750, in which it is claimed that the Virginia line extended to the northern bank of the Potomac. He found several of subsequent date, on which he states the “boundary line along the Potomac, separating Virginia from Maryland, is dotted along the northern shore of that river.” But Virginia has so often, especially by the compact with Maryland of 1785, and ever since, recognized the southern bank as the charter boundary of Maryland, that it ought not now to be considered open to question.

An important inquiry, throwing light upon the construction of the Maryland charter, is, “Whence did Lord Baltimore derive the description of the territory granted?” In the case of the Penns *versus* Lord Baltimore, the bill in Chancery filed by the Penns in 1735, for specific performance, alleges that “the tracts of land granted to Lord Baltimore, and described in his charter, were so described and bounded by the half of Captain Smith’s history and map of what was then called Virginia, and

no other, and so all skillful persons do own, acknowledge, and believe, which manifestly appears, for that the said map has all and every of the names of the several places which are contained and mentioned in the said letters patent, and no other map or maps whatsoever, which was extant in the year 1632, and at the time of granting the said letters patent, (save only the said Smith's map of Virginia,) hath or have the names and descriptions of the several places mentioned in the said letters patent." There is no evidence that Lord Baltimore had ever explored the Chesapeake Bay, so as to have personally examined "Watkin's Point," and "Cinquack," or that he had any knowledge whatever of those points, except from Smith's History and Map. And although Smith's map is said to be "wonderfully correct, considering the time and circumstances under which it was made," yet it is certain, by subsequent surveys, that it contained material errors. It located Watkins' Point on the 38th parallel of latitude, at the mouth of the river Wighco, afterward ascertained to be the Pocomoke, having mistaken it for the Wighco, or Wighcómoco, (now known as the Wicomico,) of which Smith had doubtless heard from the natives. Taking Smith's map for his guide, what could have been more natural than that Lord Baltimore, looking for a beginning boundary north of the Virginia settlements, of which doubtless she had information, should select the point laid down on that map as Watkins' Point, and run from its southern terminus to the ocean on the east, and then, after having filled out his description upon the east, north and west as far as the undiscovered western bounds could be conjectured, thence with the southwestern bank of the Potomac to the mouth thereof, to the place

called Cinquack, located on Smith's map as a small house; thence by the shortest line to Watkins' Point, the place of beginning. And, hence, we find this to be the identical description adopted in his charter.

It is certainly of the first importance that the long controversy over this southern boundary line of Maryland should be ended, and that a clearly defined line across the bay to the ocean should be agreed upon and established by the two States. The legislation of the two States upon the subject of taking oysters renders it indispensable. The difficulties in the way of ascertaining the precise locality of the two points called for in the charter of Maryland, viz, Watkins' Point and Cinquack, may be seen from the brief historical view we have presented. Nor are they less in ascertaining the place of beginning of the Calvert and Scarborough line, and where they agreed, or intended to agree, the line should run from the place of beginning till it struck the east shore of the Pocomoke river. Having agreed upon "the extremest part of the westernmost angle of said Watkins' Point," it would have been easy and natural to have said "from which said point we have run an east line across Somerset county, and over the Pocomoke River," &c. But, instead of this plain and natural language, if such had been the agreement, we have an agreement that a body of land, many miles in extent from east to west and from north to south, is Watkins' Point, from which Point, so-called, we have run an east line, *agreeable with* the extremest part of the westernmost angle of the said Watkins' Point, *over the Pocomoke River,*" &c. Did they mean from the point of beginning down Tangier Sound to the Pocomoke Bay or river and up, by and with

said Pocomoke Bay or river to a point on the east shore of that river, "agreeable with," or corresponding to, an east line, if drawn from the point of beginning across Somerset county. This has been the practical interpretation of the compact acted upon by both Virginia and Maryland from 1668 to the present. And again, where was the location of that westernmost angle of Watkins' Point in 1668? Lieutenant Michler, in his report, 1859, says: "Although the angle of this point of land (Jane's Island) where the line now strikes the Sound, is, even at this day, the most western one, still, many years ago, the land made out into the Sound a much greater distance. Jane's Island is said by Captain John Nelson, aged seventy-two years, to have extended, within his recollection, to the present position of the Light-ship, now anchored about a mile and a half out from the present shore line. Stumps of trees are said to exist in the marshes and in the water between the main land and Watts' Island, showing that it probably was once one continuous neck of land as far south as that island."

A Mrs. Thomas, who lived on Jane's Island, and died there a few years ago, at about ninety-six years of age, was often heard to say that she well remembered when a peach orchard stood about where the Light-ship was anchored. According to these witnesses, the island has washed away a mile and a half within a hundred years, say since 1768. How much did it wash away in the preceding hundred years, from 1668, and how much in the thirty-six years from the date of the charter preceding 1668? And then, if the point of beginning in 1632, or 1668, was ascertained, it is now shown and admitted, that the line of 1668, expressly called an "east line" to the

ocean, is five degrees and fifteen minutes to the north of east, owing, as suggested by Lieutenant Michler, to the variation of the needle at that time, as "in all probability it was run with a compass, without allowing for any variation of the needle." This mistake was not discovered until 1859. Of course, if the line is to be re-adjusted, the mistake ought to be considered.

We have said that the line proposed by the undersigned is both reasonable and equitable. The mistake in running the line, as before stated, gave Virginia about twenty-three square miles of Maryland territory in the northern part of Accomac county; while if the line were prolonged over Somerset county, not more than eight square miles of high land would fall south of the said line. So that, if Virginia should agree to the line proposed by the Maryland Commissioners, the land covered by the waters of Pocomoke Bay to its channel, if added to the land lying south of the prolonged line in Somerset county, would still leave Virginia much the gainer by the mistake in running the line, to say nothing of the mistake in the place of beginning. The fish and oysters in the waters adjacent to that part of Somerset county have, ever since the first settlement of the county, been the principal source of support for the settlers and their families, while they are many miles remote from any portion of the people of Virginia. Besides, the State of Maryland, her citizens and others, are deeply interested as stockholders in the Eastern Shore Rail Road Company, which has expended nearly a million of dollars in the construction of a link in a great chain of railway internal improvements, by means of a line of magnificent steamers from Crisfield to Norfolk, forming the most direct, and one of the most important thoroughfares of freight and travel from Maine to Texas. Virginia is also deeply interested in the success

of this line of communication. The prolongation of the Calvert and Scarborough line to Tangier Sound, as has been ascertained by Mr. de la Camp, would leave the rail road and depot in Maryland, but would cross the southeast angle of the wharf or pier a few feet, leaving the harbor and the waters of Little Anname-six River on the Virginia side of the line. The channel of that river, though deep, is narrow and tortuous, and to afford free and unobstructed access to the port of Crisfield at all times, especially to the regular line of steamers, and to protect the harbor and channel for navigation, it is absolutely necessary that an efficient police, armed with proper authority, be present, and always ready for the prompt discharge of their duty. It will at once be seen that the exercise of two jurisdictions over a harbor divided by a water line would be impracticable. It is manifestly for the interests of both Virginia and Maryland, and of all interested, that these waters should remain hereafter as they have always been heretofore since the first settlement of those States under the jurisdiction of Maryland.

The Chairman has again to acknowledge his obligations to the President of the Maryland Historical Society for the knowledge of a most rare and important map belonging to the collection of that Society. It is described as follows: "Map of Virginia, Maryland, Pennsylvania, East and West New Jersey, by John Thornton, at the Platt in the Minories, and by Will Fisher, at ye Postern Gate, on Tower Hill, London." Date of this map supposed to be about 1700. The southern boundary, beginning at Smith's Point, crosses the bay in a due east line, and crosses the peninsula to the ocean through a double line of boundary trees, (drawn on the map). The line on this map leaves Smith's Island entirely in Mary-

land. With reference to the objection of the Virginia Commissioners to the Maryland proposition, that a part of Smith's Island has always been included in Virginia, it is true that Shanks' Hammock, containing some four or five families and a few acres of high land, has always been under the jurisdiction of Virginia. But where the divisional line was ever run, or whether any such line across Smith's Island ever was run under the joint authority of the two States, there is no record or tradition. There is a tradition that a divisional line from Smith's Point passed across the lower part of Smith's Island below Horse Hammock, which has for many years been under the jurisdiction of Maryland, although the present proprietor stated to the Commissioners that a former occupant many years ago paid taxes and took out a store license in Virginia. There is no certain tradition, so far as the Commissioners could ascertain, to fix the location of any divisional line between Maryland and Virginia across Smith's Island. And while the line proposed by the Maryland Commissioners would place the few families at Shanks' Hammock under Maryland jurisdiction, it is not much more than the change wrought by the retracing of the traditional Calvert and Scarborough line between the Pocomoke River and the ocean. In retracing that line by Mr. de la Camp, it was found that the relations of four houses were changed, two families, one store, and a mill.

It does not appear to the Commissioners that there can be any insuperable difficulty in arriving at an amicable adjustment or compromise of the divisional line in question, if the conflicting legislation of the two States was removed. And with a view to this result, the Commissioners recommend the repeal of the Act of the

General Assembly of Maryland of 1860, chapter 385. It has been productive only of error and confusion. The map prepared under the direction of Colonel Lee, at the instance of Governor Hicks, in supposed accordance with the Act of 1860, and published with a brief explanation by Col. Lee, in Sept., 1860, addressed to the late Gov. Hicks, and entitled "Southern Boundary of Maryland between Smith's Point and the Atlantic," is well calculated to mislead. Although purporting to be in conformity with the provisions of the Act of the General Assembly of Maryland, January session, 1860, chapter 385, it does not run the line from Smith's Point "to the southernmost angle of the body of land defined by the aforesaid Commissioners as Watkins' Point." This map, which contained only a proposed southern boundary, probably misled Mr. Martinet in his description of that boundary in his atlas, published under the patronage of the Legislature in 1866. So far, at least, as he refers to the north shore of the Pocomoke Sound and river as a part of that boundary. Mr. Martinet's description of the boundaries of Maryland, in his atlas, is singularly full of errors. He states that the famous Mason & Dixon's line begins at Cape Henlopen, whereas Mason & Dixon's line begins at a point midway between the Atlantic Ocean and Chesapeake Bay, which point had been ascertained by the predecessors of Mason & Dixon, and from which they began their survey. Again, he states the southern line to run from Smith's Point easterly to the most western point of Watkins' Point on the eastern shore of the Chesapeake Bay, although the Act of 1860 had declared it to run to the southernmost angle of Watkins' Point. He then adds: "From this point, (viz, the most western

point of Watkins' Point,) the line should run due east to the ocean, but has lately been settled as binding on the north shore of Pocomoke Sound and river," &c. We have not been able to find any authority for this statement. The State of Maryland has certainly, so far as we have been able to learn, never assented to such line. Again, Mr. Martinet, referring to the traditional line from the Pocomoke River to the Atlantic, says: "This due east course bears in reality nearly four degrees north of east;" whereas Lieutenant Michler, who actually run the line in 1858 for the first time since the original running in 1668, expressly states the "direction of this line was five degrees fifteen minutes north of east at the time of the recent survey in November, 1858." These mistakes are so material as to require correction at the earliest practicable moment.

If upon the repeal of this Act of 1860, Virginia shall repeal her resolutions which are supposed to restrict her Commissioners, so that the Commissioners of the two States may be relieved of this embarrassment and left free to agree upon a divisional line, subject to the ratification or rejection by their respective Legislatures, it is believed that an amicable adjustment may be made. If this reasonable expectation should be disappointed, and no agreement or compromise can be arrived at, there will then remain only the remedy by a bill in the Supreme Court of the United States, to obtain the decision of that tribunal upon the matters in controversy. Maryland can certainly lose nothing by an appeal to that tribunal. She would be remitted to her original chartered rights as to this line; and if she should be held to the agreement of 1668 as to the Calvert and Scarborough line, she will be entitled to have that line run due east, as that agreement calls for. It has been but a few years since the mistake

in the original running of the line, five degrees north of east, was discovered. The legal principles involved were fully settled by the Supreme Court in the case of the State of Rhode Island against the State of Massachusetts, reported in 12th Peters.

Your Commissioners recommend that the Legislature make provision to continue the negotiation with Commissioners on the part of Virginia for the adjustment of this southern boundary. They also recommend that provision be made for the payment of Maryland's proportion of the expenses incurred in the execution of the duty entrusted to the undersigned, an account of which is herewith submitted. They herewith submit the report of Mr. John de la Camp, civil engineer, with the accompanying maps, showing the result of his surveys and work. It is due to Mr. de la Camp to state that, in our judgment, his work was most faithfully and accurately performed, and his maps, on inspection, will be found to have been most beautifully executed.

All which is most respectfully submitted.

ISAAC D. JONES, *Chairman.*

LEVIN L. WATERS,

WILLIAM J. AYDELOTT,

Commissioners on behalf of Maryland.

An Account of Maryland's share of the Expenses attending the execution of the Joint Commission for adjusting the Southern Divisional Boundary between Maryland and Virginia.

To William J. Aydelott, one of the Commissioners—	
For expenses incurred in the employment of Assistants, &c., in making the survey from the Pocomoke River to the Atlantic Ocean.....	\$151 09
To William J. Aydelott, one of the Commissioners—	
For his per diem and expenses.....	125 00
To Levin L. Waters, Commissioner—	
For his per diem and expenses.....	125 00
To Isaac D. Jones, Commissioner—	
For his per diem and expenses, and for the preparation of this report.....	300 00
To John de la Camp, Engineer—	
For one-half of his bill, as per account.....	347 87½
To William H. Roach—	
For two days' hire of sloop and hands.....	30 00

ACCOUNT OF EXPENSES

*Incurred in Marking the Boundary Line between Maryland
and Virginia, on the Eastern Shore.*

1867.		
Oct. 30...	Three yards tracing linen, at \$1 per yard.....	\$3 00
31...	Traveling expenses to Annapolis to trace boundary maps for survey and back.....	4 07
Nov. 7—8	Traveling expenses to Horntown, <i>via</i> Baltimore and Pittsburg wharf, including transportation of instruments, &c.....	14 15
9—15	Material for flags.....	1 73
20...	Board bill at Horntown.....	15 75
21...	Traveling expenses to Baltimore, <i>via</i> Newtown, Princess Anne and Wilmington.....	10 05
22...	Traveling expenses from Baltimore to Annapolis, for taking tracings of Western part of line, and from there to Washington, including board and transportation of instruments.	9 00
Dec. 2...	Traveling expenses to Crisfield, by steamer.....	8 80
5...	Board at Crisfield.....	4 00
6...	Traveling expenses to Pocomoke River, to fix place for monument on the bank of river.....	2 50
7...	Board at Mrs. Taylor's.....	1 25
7...	Traveling expenses to Washington.....	10 75
21...	Seven yards machine drawing paper, at 50c. per yard.....	3 50
21...	Twelve yards bleached muslin, at 25c. per yard.....	3 00
	For backing 75 square feet of paper on muslin, at 20c.....	15 00
	For making two written copies of Thos. J. Lee's Report, dated Dec. 8, 1859, 29 pages, at 25c.....	7 25
1868.		
Jan. 25...	Three yards tracing linen, at \$1 per yard.....	3 00
Feb. 11...	Traveling expenses to Annapolis to meet Hon. I. D. Jones, as desired in his letter of February 8, and back.....	6 00
15...	Three yards tracing linen, at \$1 per yard.....	3 00
17...	For making two written copies of my Report to the present Commission, 24 pages, at 25c.....	6 00
	Packing and express charges in sending the maps.....	2 00
	Total of expenses.....	\$133 80

ACCOUNT OF COMPENSATION

For Marking the Boundary Line between Maryland and Virginia, on the Eastern Shore.

1867.		
Oct. 31.....	One day spent in Annapolis in tracing boundary maps for survey	\$8 00
	FIELD WORK.	
Nov 7 to 22	Spent on the line between Pocomoke River and the Atlantic Ocean, being 16 days, at \$8.....	128 00
Dec. 2 to 8	Spent at Crisfield, Jane's Island, Horse's Hammock, and Pocomoke River, being 7 days, at \$8.....	56 00
Feb. 11.....	One day spent at Annapolis to meet Hon. I. D. Jones, as desired in his letter of February 8.....	8 00
	OFFICE WORK.	
	Plotting of the new surveys, including Crisfield, southern part of Jane's Island, with the new Light-houses, Horse's Hammock, Greenbacksville, on Chincoteague Bay, and many alterations and additions along the line...	50 00
	MAP A, TWO DUPLICATE MAPS ON BACKED PAPER, AND TWO DUPLICATE TRACINGS.	
	Transferring and inking line work.....	\$45 00
	Topography, 2,080 square inches, at 4c.....	83 20
	Lettering on paper maps 300 names, averaging 20 single current letters, 6,000 letters, at 50c per 100.....	30 00
	Lettering on tracings, 6,000 letters, at 50c. per 100.	15 00
	Titles, scales, frames, &c., on paper maps.....	12 00
	Titles, scales, frames, &c., on tracings.....	8 00
		93 20
	MAP B, TWO DUPLICATE MAPS ON BACKED PAPER.	
	Transferring and inking line work.....	\$8 00
	Topography, 382 square inches, at 4c.....	15 28
	Lettering.....	16 00
	Titles, scales, frames, &c.....	10 00
		49 28
	MAP C, TWO DUPLICATE MAPS ON BACKED PAPER.	
	Transferring and inking line work.....	\$16 00
	Topography, 368 square inches, at 4c.....	14 72
	Lettering 250 names, averaging 16 single current letters, 4,000 letters at 50c. per 100.....	20 00
	Titles, scales, frames, &c.....	10 00
		60 72
	MAP D, TWO DUPLICATE MAPS ON BACKED PAPER.	
	Transferring and inking line work.....	\$2 00
	Topography, 28 square inches, at 4c.....	1 12
	Lettering.....	1 63
	Titles, &c.....	4 00
		8 75
	Total amount for compensation.....	\$561 95
	Expenses	133 80
	Total amount.....	\$695 75
	Maryland's share of Mr. De la Camp's bill.....	\$347 87½

TO THE HONORABLE,

*The Joint Commission for Marking the Boundary Line
between Maryland and Virginia.*

GENTLEMEN:—In accordance with your instructions, I beg leave to submit the following report of my proceedings in marking the part of the boundary line between Maryland and Virginia, on the eastern shore.

The country adjacent to the line had been surveyed under instructions of the Joint Commission appointed under Acts passed by the Maryland Legislature in 1852, and by the Virginia Legislature in 1858, by Lieutenant N. Michler, United States Topographical Engineers, assisted by myself.

This officer, by the determination of a great many traditional line marks, found the general direction of the line to be five degrees fifteen minutes north of east, true bearing, from which these traditional points, marked and re-marked from age to age, differed more or less on either side.

In 1867 the Legislatures of the two States appointed the present Commission to adjust and mark the dividing line of the two States across the Chesapeake to the Atlantic. The Honorable Isaac D. Jones having been elected Chairman of this Commission, on the 10th September, 1867, addressed a letter to me, offering me the place as Engineer to the Commission, which I in two letters of the 13th and 27th September thankfully accepted, and in accordance with instructions received in two further letters of Mr. I. D. Jones, dated October 15th and October 18th, reported myself at Horntown, Virginia, on the 8th

November, to commence the work. Here I found a sub-committee, consisting of Messrs. Aydelott, (of Maryland,) Fields and Kellum, (of Virginia,) appointed to accompany me in my proceedings.

The line I beg leave to separate into three distinct parts :

I. The part between the Pocomoke River and the Chincoteague Bay.

II. The part between the Chincoteague Bay and the Atlantic Ocean ; and

III. The part west of the Pocomoke River.

I. The point between the Pocomoke River and the Chincoteague Bay was the most distinctly defined, but required the greatest share of elaborate activity of the surveyor.

Before entering on my duties in the field I had been enabled, by the courtesy of his Excellency Governor Swann, to execute an accurate tracing of the immediate neighborhood of the line throughout its entire length from the Boundary Maps, executed in 1858 and 1859, under direction of Lieutenant Michler, by myself, which are filed in the Executive Department at Annapolis.

This facilitated the field work very much, as the running of the determined azimuth line by a first-rate Theodolite, which I had been able to obtain for that purpose by the kindness of General N. Michler, United States army, proved to be very troublesome, time-wasting and expensive. I therefore, feeling entirely satisfied about the accuracy of the survey of 1858, the records of which I had in my hands in true copy, suggested to the sub-

committee another mode of marking the line, equally accurate and much speedier and cheaper. This was to measure on my accurate copy of the Boundary Maps the distance of the line from the various traditional marks and other points, surveyed and mapped with the utmost care, and measure the same distances on the ground by an improved steel tape.

This suggestion being agreed to by the sub-committee, the described mode of marking the line was carried out throughout the entire length of this part, and the following places proposed hereafter to be marked permanently by stone monuments or by cedar posts :

1. Stone monument on east bank of Pocomoke River.
2. Stone monument at Wagram, between the mill pond and the line leading to John Brittingham's, 350 feet east of Levy Tull's, Jr., store.
3. Stone monument on the county road from Horntown to Newtown, east side, at the intersection of John Brittingham's lane.
4. Stone monument on Tull's mill road, east side, 120 feet south of Samuel Davis' gate.
5. Cedar post on the State road from Newtown, north side, in front of Samuel Brimer's gate.
6. Stone monument on the State road from Newtown, west side, at the western extremity of James Aydelott's field.
7. Cedar post on the county road from John Silverthorn's to Swansecute Church, west side, 150 feet south-east of the junction of the Newtown State road.
8. Stone monument on the county road from Horntown

to Snow Hill, west side, 120 feet south of the junction of the road leading to John Silverthorn's gate.

9. Cedar post on the road leading from the State road from Horntown to Snow Hill to Mrs. Elizabeth Taylor's clearing, west side.

10. Stone monument on the State road from Horntown to Snow Hill, east side, 40 feet northeast of the edge of woods in Holland's clearing.

11. Cedar post on road from William Chapman's gate to Mrs. Elizabeth Taylor's farm, west side.

12. Cedar post on road from State road to Mrs. Elizabeth Taylor's farm, west side, 140 feet northwest of her clearing.

13. Stone monument on the last dry land before entering the marsh on Chincoteague Bay, in line with Richard Collins' and Ephraim Shaw's houses, 750 feet northwest from the latter.

Besides these permanent marks, the line will be defined by a great many trees that were marked as standing either directly on the line or very near it, whilst the sub-committee was progressing.

At the western terminus of this Azimuth line on the Pocomoke River, I had to resort to a surveyor's compass, furnished me by the kindness of General J. C. Woodruff, in charge of the United States Topographical Bureau. At this place only one fixed point of the survey of 1858 could be used, the whole locality having been changed since by the establishment of new farm houses, one of which is just intersected by the line, leaving the greater part of it in Maryland, and throwing the balance into Virginia.

As I could not ascertain the direction of the line on the ground by one fixed point, I had to resort to the magnetic needle, taking the present variation into consideration.

The map of this part of the line you will find accompanying this report under the letter A.

It contains the immediate neighborhood of the line, as it was surveyed and mapped in 1858-9, with the alterations in and additions to the improvements of the ground as they were found in 1867. These have been actually surveyed. In the details shown on the map are included the different old traditional line marks, with the exception of the following, which had disappeared or changed their conditions since the survey of 1858.

1. Old stump in fence in James Baily's field, (Benj. Tull, owner,) disappeared.
2. Gum in fence on Mrs. Harriet Tull's land broken down ; stump fast decaying.
3. Large pine in front of James Payne's house cut down ; stump sound.
4. Dead cherry tree, near county road to Snow Hill, fallen ; stump decayed.
5. Oak at edge of Ironi Holland's clearing, fallen ; stump decayed.

The line proposed to be adopted is represented on the map by a sharp red line ; the places at which the erection of stone monuments is recommended, are designated by red diamonds, and the places where strong cedar posts were put, by red circles.

II. The part of the line between the Chincoteague Bay

and the Atlantic Ocean involved the prolongation of that part of the line on the main land visible from the shore across the Chincoteague Bay to the islands bordering on the Atlantic Ocean, and here a little difficulty arose. Although this prolongation was executed with as much care as circumstances admitted, the line touched those islands at points north of the traditionary line, which divides two large tracts of land, the deeds of which were recorded in the land offices of the two respective States, calling for this line as the State line.

This traditionary line is marked by strong posts, and at the west shore of Pope's Bay even by a stone monument.

From this monument the prolonged line was found to be 1,277 feet to the north.

Having been furnished, by the kindness of J. E. Hilgard, Esq., First Assistant United States Coast Survey, with a tracing of the coast survey chart, entitled "Shores of Chincoteague Bay," I availed myself of the opportunity of investigating the direction of the eastern end of the prolonged line, and found its azimuth to be $6^{\circ} 30'$, instead of $5^{\circ} 15'$ N. of E., which shows that, notwithstanding the considerable care which was used in prolonging the line, the original azimuth had not been retained. I confess I did not expect a very accurate result from the mode in which the prolongation was done, which was to put a flag-staff and flag in the Bay, about every three-fourths of a mile, as near as possible in the required range, for as on most of the stations it was impossible to see more than two flags, and as the strong winds made the establishment of the flags very difficult, I should not be surprised if the line across the Bay was slightly bent to the north.

To run this line across the Bay, (a distance of nearly six miles,) accurately, a perfectly calm day should be selected, for which the season was too far advanced, and the number and size of the flags be greatly increased, and the stations shortened.

The line would have been re-run, however, had not the sub-committee agreed upon recommending the traditionary line, acknowledged by the land offices of both States as the boundary line, no matter whether its direction differed from that of the line on the main land or not.

The direction of this line proved to be $4^{\circ} 00'$ N. of E., and would intersect the true prolongation of the line on the main land in the Bay at some place nearly opposite Hardy's Hole Island; therefore, the sub-committee agreed to amend their original agreement so as to recommend the establishment of the boundary by drawing a line through a point about the centre of the length of the traditionary line, between the two extreme shores, to the point where the main line reaches the west shore of Chincoteague Bay, by which the true bearing of the line would become $4^{\circ} 45'$ N. of E. This centre point is so near the place on the west shore of Pope's Bay, where the stone monument of the traditionary line is standing, that the latter was at once adopted as a point of the new line.

Thus the recommended line runs from the monument at the east bank of Pocomoke River in the direction of E. $5^{\circ} 15'$ N. to the west shore of Chincoteague Bay, and from there in the direction of E. $4^{\circ} 5'$ N. to the Atlantic Ocean, passing through the place on the west shore of Pope's Bay, marked by the old stone monument. The deviation of this $4^{\circ} 45'$ azimuth line from the old traditionary line on Toby's Island, the easternmost of the islands between Chincoteague Bay and the Atlantic Ocean,

crossed by the line, amounts to 73 feet to the south, and on the intermediate points proportionally less.

The deviation of the new line from the old line east of the old stone monument is of course equally great to the north, and the turning point of the line being so near the centre, the exact amount of land taken from Virginia west of the monument by this change is added to it east of the latter.

The map of this part of the line is accompanying this report under the letter B.

It contains a part of the islands between the Chincoteague Bay and the Atlantic Ocean for some distance north and south of the line, taken from the United States Coast Survey Chart, with additions from actual survey. The line proposed to be adopted is designated by a sharp red line, and the old traditional line by a broken black line.

III. The part of the line west of the Pocomoke River.

I have but little to say upon this part of the line, as a final action of the Joint Commission could not be arrived at on account of difference in the views entertained by the members of the two States. The members from Virginia abiding by the wording of the old charter of Maryland, which calls for Watkins' Point, participated in the opinion expressed by Thomas J. Lee, Esq., Commissioner under the Act of the Maryland Legislature, passed 1852, in his two Reports to his Excellency, Governor Hicks, printed in 1860 and 1861, as to the former locality of this point, very probably washed away by the waters of Tangier Sound, in which he proves to considerable satisfaction that this point must have been about one mile off the southwestern extremity of Jane's Island, in the westward prolongation of the azimuth line, marked by Philip Calvert

and Edmund Scarborough in 1668, east of the Pocomoke River, and determined by the survey executed in 1858 under the direction of Lieutenant N. Michler, United States Topographical Engineers.

The line of the Virginia members of the Joint Commission claimed, runs from this point, in a straight line, to Smith's Point, at the mouth of the Potomac River, crossing the Smith's Islands about Horse Hammock, whereas the Maryland members of the Commission very naturally claimed the line established by the Maryland Legislature in 1860, which runs from the extreme westwardly situated point of the island lying immediately north of the Cedar Straits, in a straight line across the Bay to Smith's Point, without touching Smith's Islands, leaving the western shore of the Little Annamessex Neck, and also the terminus of the Delaware & Eastern Shore Rail Road, at Crisfield, immediately north of the Somer's Cove, in Maryland.

During the earnest efforts of the members of the Joint Commission to come to some agreement, I made the necessary surveys to enable me, together with the use of the boundary maps made in 1858-9, under the direction of Lieutenant N. Michler, United States Topographical Engineers, to make a map of Crisfield Depot, Somer's Cove, and southern part of Jane's Island, including the two new Light-houses at the mouth of Little Annamessex River, all of which I found very much changed since 1858. This map is annexed under the letter C. It shows the prolongation of the old Calvert & Scarborough line designated by a broken red line, which leaves all of the railroad terminus north of it, with the exception of a very small corner of the railroad pier and depot at the southern extremity.

Further, I made a survey of the Horse Hammock, on Smith's Island, a map of which is annexed under the letter D.

All the maps are drawn in the scale of 1 to 5,000, or 12½ inches to the mile.

Enclosed I beg leave to present an account of my expenses incurred in acting as Engineer to the Joint Commission, and of my compensation for field work and mapping, the appropriation of one-half of which as the Maryland share by the present Legislature I beg you to recommend. I close my remarks with the assertion that the maps are made as economically as possible, without, however, losing the two qualities indispensable in a map, which are accuracy and plainness.

I am, Gentlemen, very respectfully,

Your obedient servant,

JOHN DE LA CAMP,

*Engineer to Joint Maryland and Virginia
Boundary Commission.*

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